In the High Court of Punjab and Haryana at Chandigarh.

Regular Second Appeal No.3226 of 2006.

Date of decision:25.9.2006.

Prem Chand and another.

...Appellants.

Versus

Shanti Devi and others.

...Respondents.

...

Coram: Hon'ble Mr. Justice S .N. Aggarwal.

...

Present: Mr.Rakesh Nehra Advocate for the appellants.

...

Judgment.

S. N. Aggarwal, J.

The appellants were the defendants in the learned trial Court. The respondents had filed suit for possession by way of partition. The appellants herein had taken the plea that the suit property was sold to them by their brother Jagdish Chander vide sale deed dated 13.3.1980.

The appellants contested the suit.

Issues were framed.

The respondents led the evidence.

However,the appellants did not lead any evidence to prove

sale deed dated 13.3.1980 in their favour allegedly executed by Jagdish Chander (predecessor-in-interest of the respondents). Accordingly, the suit for possession by way of partition filed by the respondents was decreed by the learned trial Court vide judgment and decree dated 5.11.2004.

The appellants filed an appeal but the learned Lower Appellate Court up-held the findings of fact recorded by the learned trial Court and dismissed the appeal vide judgment and decree dated 9.9.2005.

Hence, the present appeal.

The submission of learned counsel for the appellants was that no opportunity was granted to the appellants to prove the sale deed. Hence, it was prayed that one opportunity be given to the appellants to prove the sale deed executed by Jagdish Chander (predecessor in interest of the respondents) in their favour.

This submission has been considered. However, I find no merit in it. The respondents had filed the civil suit for possession by way of partition on 31.1.1994 and the plea of sale deed in their favour allegedly executed by Jagdish Chander plaintiff was taken up by the appellants in the written statement filed by them. Issues were framed. The appellants took sufficient time but they failed to lead any evidence. Ultimately, the suit was decided by the learned trial Court vide judgment and decree dated 5.11.2004. i.e. more than 10 years after its institution. The appellants have not led any evidence when their turn

came to lead evidence. If their evidence was closed by order by the learned trial Court, it was for them to challenge the said order by filing revision petition against that order but no such step was taken by the appellants. Therefore, it is too late for the appellants to claim an opportunity of producing evidence.

There are concurrent findings of fact recorded by the learned Courts below and I find no ground to disturb the findings of fact.

No substantial question of law arises in this appeal.

No merit.

Dismissed.

September 25,2006. (S. N. Aggarwal)
Jaggi Judge